

HOUSE BILL NO. 190

INTRODUCED BY A. BECKER

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "VICTIM" IN LAWS RELATING TO THE RIGHT OF VICTIMS TO ATTEND CRIMINAL PROCEEDINGS; MAKING THE DEFINITION CONSISTENT WITH ASSAULT AND PARTNER OR FAMILY MEMBER ASSAULT LAWS; AMENDING SECTION 46-24-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-24-106, MCA, is amended to read:

"46-24-106. Crime victims -- family members -- right to attend proceedings -- exceptions. (1)

Except as provided in subsection (2), a victim of a criminal offense has the right to be present during any trial or hearing conducted by a court that pertains to the offense, including a court proceeding conducted under Title 41, chapter 5. A victim of a criminal offense may not be excluded from any trial or hearing based solely on the fact that the victim has been subpoenaed or required to testify as a witness in the trial or hearing.

(2) A judge may exclude a victim of a criminal offense from:

(a) a trial or hearing upon the finding of specific facts supporting exclusion or for disruptive behavior;

or

(b) a portion of a proceeding under Title 41, chapter 5, that deals with sensitive personal matters of a youth or a youth's family and that does not directly relate to the act or alleged act committed against the victim.

(3) If a victim is excluded from a trial or hearing upon the finding of specific facts supporting exclusion, the victim must be allowed to address the court on the issue of exclusion prior to the findings.

(4) A family member of a victim may not be excluded from a trial or hearing based solely on the fact that the family member is subpoenaed or required to testify as a witness in the trial or hearing unless there is a showing that the family member can give relevant testimony as to the guilt or innocence of the defendant or that the defendant's right to a fair trial would be jeopardized if the family member is not excluded.

(5) As used in this section, "victim" means:

1 (a) a person who suffers loss of property, ~~or~~ bodily injury, or reasonable apprehension of bodily injury
2 as a result of:

3 (i) the commission of an offense;

4 (ii) the good faith effort to prevent the commission of an offense; or

5 (iii) the good faith effort to apprehend a person reasonably suspected of committing an offense; or

6 (b) a member of the immediate family of a homicide victim."
7

8 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.
9

10 NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the
11 meaning of 1-2-109, to crimes committed before [the effective date of this act].
12

- END -